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11 Attorneys for Defendants

12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 NATHANIEL GARDNER,) **No. CV 08-01248 VRW**
15 Plaintiff,)
16 v.)
17 THE UNITED STATES DEPARTMENT)
18 OF JUSTICE; THE DRUG)
19 ENFORCEMENT ADMINISTRATION)
20 and THE PERSON(S) CURRENTLY ON)
21 RECORD TITLE TO 1955 FORD)
22 THUNDERBIRD VIN. # P5FH235863,)
23 Defendants.)

**NOTICE OF MOTION AND MOTION
TO DISMISS COMPLAINT FOR
DAMAGES**

24 PLEASE TAKE NOTICE THAT ON Thursday, August 21, 2008, at 2:30 PM, or as
25 soon thereafter as the matter may be heard in the courtroom of the Honorable Vaughn R. Walker,
26 Courtroom 6, 17th Floor of the U.S. Courthouse located at 450 Golden Gate Ave., San Francisco,
27 CA, Defendants United States Department of Justice and Drug Enforcement Administration will
and hereby do move the Court, pursuant to Federal Rule of Civil Procedure 12, for an order
dismissing Plaintiff Nathaniel Gardner's Complaint for Damages for lack of subject matter
jurisdiction.

28 This Motion is based on this Notice of Motion; the Response to Motion to Set Aside

1 Forfeiture and Motion to Dismiss Complaint for Damages, filed herewith; the declarations of
2 John Hieronymus, Andrea Howard, and Bettie E. Goldman, filed herewith; the pleadings and
3 papers on file herein; and upon such other matters as may be presented to the Court at the time of
4 the hearing.

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Respectfully submitted,

8 JOSEPH P. RUSSONIELLO
9 United States Attorney



10 Dated: May 7, 2008
11 DAVID B. COUNTRYMAN
12 Assistant United States Attorney

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